

HOUSE BILL No. 1165

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-13-17.5.

Synopsis: Utility pole attachment fee. Provides that a rural electric membership corporation (REMC) may impose a fee on attachments made to certain REMC property by a utility. Provides that an REMC may impose a penalty on a utility that fails to timely remove an attachment.

Effective: July 1, 2004.

Duncan

January 13, 2004, read first time and referred to Committee on Commerce and Economic Development.

C
o
p
y



Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1165

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-13-17.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 17.5. (a) As used in this section, "attachment" means**
4 **an attachment by a utility to a conduit, duct, pole, right-of-way, or**
5 **other property owned or controlled by a corporation.**

6 **(b) As used in this section, "telecommunications service" means**
7 **the transmission of messages or information by or using wire,**
8 **cable, fiber optics, laser, microwave, radio, satellite, or similar**
9 **facilities. The term includes a provider of cable or digital television**
10 **service.**

11 **(c) As used in this section, "utility" means any of the following:**

12 **(1) A public utility (as defined in IC 8-1-2-1(a)).**

13 **(2) A municipally owned utility (as defined in IC 8-1-2-1(h)).**

14 **(3) A telephone company (as defined in IC 8-1-2-88.6).**

15 **(4) A provider of telecommunications service.**

16 **(d) A corporation may impose a reasonable fee on an**
17 **attachment. A utility that makes an attachment on a corporation's**



C
o
p
y

property must enter into a written agreement with the corporation.
The agreement must include the fee and the terms and conditions
of the attachment.

(e) A fee imposed under subsection (d) may be based on or
include the following:

(1) The amount of the property occupied by the attachment.

(2) Unallocated support structure on the property in
proportion to the space occupied by the attachment.

(3) Replacement cost of the property.

(4) Costs associated with the property, including depreciation,
labor, maintenance, and taxes.

(5) A premium to enforce an agreement described in
subsection (d) if a utility makes an unauthorized attachment.

The premium may not exceed the sum of:

(A) the average fee imposed by the corporation; plus

(B) attorney's fees;

multiplied by three (3).

(f) A corporation may require a utility to remove an attachment
before expiration of an agreement described in subsection (d). The
corporation shall provide written notice of the removal to the
utility.

(g) A corporation may impose a penalty on a utility that fails to
remove an attachment within thirty (30) days after:

(1) the expiration of an agreement described in subsection (d);

or

(2) receipt of written notice under subsection (f).

(h) A penalty described in subsection (g) may not exceed the
sum of:

(1) the average fee imposed by the corporation;

(2) removal costs; and

(3) attorney's fees;

multiplied by three (3).

C
o
p
y

